THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24926 of 2006

Dated: 01-12-2006

Between:

Smt. Mallamma and others.

..... PETITIONERS

AND

The State of Andhra Pradesh,
rep. by the Secretary, Revenue Department,
Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24926 of 2006

ORDER:

The petitioners claimed to be the legal heirs of late Ch. Pochaiah, who is allegedly owner of land admeasuring Acs.5.00 in survey No.91 situated at Gachibowli Village of Serilingampally Mandal in Ragan Reddy District. In 1976, an attempt was made by the then Tahsildar to evict the Pochaiah and others under the Andhra Pradesh Land Acquisition Act, 1905 (the Act, for brevity). A notice under Section 7 of the Act was issued to Pochaiah and others. Pochaiah then filed W.P.No.1428 of 1976, which was disposed of by this Court on 25-01-1977 observing that the Tahsildar may hold an enquiry and take necessary action. Be that as it is after coming into force of the Urban Land (Ceiling and Registration) Act, 1976, (ULC Act, for brevity), Pochaiah appears to have filed a declaration under Section 6 of ULC Act on 21-01-1977, being C.C.No.14 of 1977, before the Special Officer and Competent Authority, Hyderabad agglomeration, second respondent herein.

Pochaiah passed away on 09-05-1998. Sri T. Narayana, one of the two general power of attorneys of the petitioners (who filed the affidavit in support of the writ petition) made an application to the fourth respondent on 30-10-2001 requesting for demarcation of the land. In the said application it was mentioned that some of the neighbours are trying to encroach upon the land and some of the third parties grabbed the land. The fourth respondent issued a memo in July, 2003, informing that the request for demarcation cannot be considered. The petitioners then requested for certified copies of the declarations in C.C.No.14 of 1977. The petitioners also filed a writ petition seeking such relief, which was granted by this Court on 10-11-2004. Subsequently the petitioners filed C.C.No.1017 of 2005 and thereafter copy of the proceedings dated 17-10-2005 were issued to the effect that as per the report of the enquiry officer, declarant - Pochaiah has no title. The petitioners again filed W.P.No.24621 of 2005 seeking a writ of Mandamus directing the respondents to supply a copy of the report of the enquiry officer and the same was disposed of by this Court. Xerox copy of the report of the enquiry officer was served on the counsel for the petitioners on 05-09-2006. The report of the enquiry officer shows that there is no such person by name Pochaiah and that he has no title. In this back ground the petitioners filed instant writ petition seeking a writ of Mandamus declaring the report of the enquiry officer dated 29-11-1993 and

consequent proceedings as illegal and arbitrary and contrary to the provisions of ULC Act.

The learned counsel for the petitioners vehemently contends that Pochaiah was served with a notice under Section 7 of the Act. When Pochaiah filed W.P.No.1428 of 1976, the same was disposed of recording the submission that the Tahsildar would conduct enquiry into the matter. Therefore, it is incorrect for the enquiry officer to say that there is no person like Pochaiah and that he is not owner of the land. The learned counsel nextly contends that if an appropriate enquiry is now conducted, the petitioners would be able to demonstrate and prove their claim to the land. **Opposing** the writ petition the learned Assistant Government Pleader for Urban Land Ceiling submits that the declaration filed by Pochaiah being C.C.No.14 of 1977 was closed based on the enquiry report dated 29-11-1993 submitted by the enquiry officer and at this point of time, the petitioners cannot seek any relief in a writ petition. He also submits that though it was open to the petitioners to obtain a copy of the proceedings of the Special Officer closing the declaration, they did not do so and therefore, their claim is barred by delay and laches.

The enquiry report dated 29-11-1993 submitted by the enquiry officer to the second respondent is annexed to the writ petition. It reads as under.

REPORT OF THE ENQUIRY OFFICER ZONE NO.11.(H) SECTION

No.H/14/77 Dated 29-11-1993

To

The Spl. Officer and C.A.,

U.L.C. Hyderabad.

Sir,

Sub:- U.L.C. Hyderabad – declaration filed by Sri Pochaiah S/o Ramaiah R/o Gachibowli vg- Enquiry Report submitted – Regarding.

Ref:- C.C. Filed by Sri Pochaiah S/o Ramaiah in C.C. File No.H/14/77.

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Kind attention is invited to theref. Cited and submit that one Sri Pochaiah S/o Ramaiah R/o Gachibowli has filed an declaration declaring the following properties:-

Sl. No.	Sy. No.	Extent:	Location:	Remarks:
1.	91	2-00 Hts.	Gachibowli vg.	

I have visited the village and enquired aboutthedeclarent Sri Pochaiah S/o Ramaiah, presently there is no such person byname Pochaiah who is having properties in Gachibowli vg. However I have verified the Revenue Records and found that the lands declared by the declarent is 'Kacha Sarkari' in thesaid Sy.No.Central University and other Govt. organizations are occupied the lands. The total extent of this Sy.No.is 522-15 Acrs.

Since the declarent has no title over the said land this C.C. file may be closed. The extract of pahani is enclosed.

This is for favour of kind information.

Yours faithfully,

Xxx

Enc: CC file with pahani extract (K. Laxmaiah.)

E.O.

The above report is self-explanatory. According to the revenue records as verified by the enquiry officer, out of the total extent of land admeasuring Acs.522.15 guntas in survey No.91, an extent of land admeasuring 2.00 hts (about Acs.5.00) of Gachibowli is registered in the revenue records as 'Kancha Sarkari' (Government land) and that the land in the said survey number is occupied by the Central University and other Government organizations. The enquiry officer also opined that the declarant - Pochaiah, S/o Ramaiah had no title over the land. Based on the report of the enquiry officer, admittedly the second respondent closed C.C.No.14 of 1977 filed under Section 6 of ULC Act. This would lead to a conclusion that there is title dispute insofar as 2.00 hts/Acs.5.00 of land which is claimed by the predecessor of the petitioners. Therefore, the petitioners have to seek a declaration of title in civil Court and writ petition is not proper remedy. When the declaration filed by late Pochaiah is closed as the land is Government land, such order dated 29-11-1993 cannot be faulted.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

01st December, 2006

ghn